(2)

CF0000062487

IN THE HIGH COURT OF JUDICATURE : AT JABALPUR.

CRIMINAL APPEAL NO. 2422/1999.

Adhiman Singh alias Bega son of
Ramcharan Gond, aged 60 years,
Resident of Village Shivpur Darripara,
Police Station Khadgawan District
Koriya (M.P.).

... APPELLANT
(IN JAIL)

Vs.

State of Madhya Pradesh

... RESPONDENT

CRIMINAL APPEAL UNDER SECTION 374(2) OF
THE CODE OF CRIMINAL PROCEDURE.

(27)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... CRA 2422 / 99 **सन्** / **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench:

Hon'ble Shri L.C.Bhadoo, J &
Hon'ble Shri V.K. Shrivastava, J.

21-09-2006

Shri Parag Kotecha, counsel for the appellant.

Shri U.N.S. Deo, Addl. Public Prosecutor with Shri U.K.S. Chandel, Panel Lawyer for the State.

Oral judgment dictated on *Dais*.

Per L.C. Bhadoo, J.

This appeal is directed against the judgment of conviction and order of sentence dated 28-7-1999 passed by the Additional Sessions Judge, Manendragarh, in Sessions Trial No.339/1998 whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of murder of Sukhwariya Bai, his wife, under Section 302 of the Indian Penal Code, convicted and sentenced him to undergo imprisonment for life.

The case of the prosecution, in brief, is that Thakur Ram (PW-1) lodged the First Information Report in Police Station Khadgawan on 22-8-1998 at about 6.35 p.m. to the effect that he came to know from Mainprasad that Adhiman Singh @ Bega has committed the murder of his wife Sukhwariya Bai. He along with Mainprasad went to the house of Adhiman Singh where some other persons were also present and saw that the body of Sukhwariya Bai was lying on the ground in the house.

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

There were injuries on her wrist on the left hand and the palm of the left hand. There was a black mark on the neck of the deceased on account of pressing of neck of the deceased. The blood was oozing out of the mouth. The blood was also oozing out from the private parts. On enquiry from the accused/appellant Adhiman Singh @ Bega, it is informed that on 18-8-1998, in the mid day, ~~when~~ his wife was sleeping in the house and did not go to the agricultural field, ~~and~~ when he returned from the field seeing his wife sleeping, he became infuriated, picked up a lathi and assaulted the deceased with lathi on her neck, as a result of which she sustained injuries and was not able to walk properly. Looking to her pitiable condition, he was not able to bear the pain of his wife, therefore, on 21-8-1998 at about 10.00 a.m., he pressed neck and committed murder of his wife. One lathi was inserted into the private part of the deceased, as a result of which she died instantaneously.

On receiving the report, the Station House Officer registered a crime under Section 302 of the Indian Penal Code and left to the scene of occurrence. While in the Police custody, accused gave memorandum, vide Ex-P/3, about the club, which was used for assaulting the deceased and in pursuance of that, it was recovered under Ex-P/4. The sari of the deceased was taken into possession under Ex-P/5. Blood stained soil and plain soil were seized from the place of occurrence under Ex-P/6. The clothes of the deceased were taken into possession under Ex-P/8. The Panchnama of the body of Sukhwariya Bai was prepared vide Ex-P/11.

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The body of the deceased was sent for postmortem examination to the Government Hospital, Khadgawan where Dr. O.L. Verman (PW-9) conducted the postmortem on the body of Sukhwariya Bai. Postmortem report is Ex-P/9. The Doctor opined that the death of Sukhwariya Bai was due to asphyxia (cardio respiratory failure) and was homicidal in nature. The clothes, club and other articles were sent for chemical examination to the Forensic Science Laboratory, Sagar from where report (Ex-P/14) was received.

After completion of the investigation, charge sheet was filed in the Court of Judicial Magistrate First Class, Manendragarh, who in turn, committed the case to the Sessions Judge, from where learned Additional Sessions Judge received the case on transfer for trial.

The prosecution in order to establish the charge against the accused persons examined ten witnesses. On the other hand, statement of the accused was recorded under Section 313 of the Code of Criminal Procedure in which he denied the material appearing against him in the prosecution evidence, he stated that he is innocent and has been falsely implicated. He also stated that the witnesses have deposed against him on account of animosity.

Learned Additional Sessions Judge after hearing Additional Public Prosecutor and counsel for the accused, convicted and sentenced accused as mentioned in para one of this judgment.

(पीछे देखिये)

(30)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. 2422/99 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —५—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

We have heard learned counsel for the parties.

The fact of homicidal death of Sukhwariya Bai has not been disputed by learned counsel for the accused/appellant. Apart from that, in view of the extra judicial confession made by the accused before PW-1 Thakur Ram, PW-2 Badrinarayan, PW-3 Mainprasad, PW-4 Shivprasad and PW-5 Balbhadra Singh, as per the medical evidence of Dr. O.L. Verman (PW-9), Sukhwariya Bai died on account of asphyxia, the death was homicidal in nature, it is established that the death of Sukhwariya Bai was homicidal in nature.

As far as involvement of the accused/appellant in the crime in question is concerned, the case rests on the circumstantial evidence, as there is no direct and ocular evidence in this matter. The prosecution has tried to establish the charge against the accused on the following circumstances :

(i) That the accused made extra judicial confession before the villagers.

(ii) The dead body of Sukhwariya Bai was found in the house of the accused and he offered no explanation as to how the deceased sustained the injuries, even the clothes of the deceased and club were recovered at the instance of the accused. The blood was found on these items.

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. 2422/99 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -S-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

As far as first circumstance is concerned, Thakur Ram (PW-1), Bhadrinarayan (PW-2), Mainprasad (PW-3) and Shivprasad (PW-4) have categorically stated that on coming to know about the death of Sukhwariya Bai, wife of the accused, they went to the house of accused and saw the dead body of Sukhwariya Bai. There were injuries on the body of deceased. Blood was oozing out of the mouth. Even blood was oozing out of the vaginal part of the deceased and there was injury on the neck. On enquiry, the accused disclosed that he has murdered his wife Sukhwariya Bai by pressing her neck. All these witnesses are independent witnesses. They have no grudge or animosity against the accused, therefore, there is no reason before the Court to disbelieve their evidence and their evidence inspire full confidence of the Court. Therefore, it is established that the extra judicial confession was made by the accused before these persons that he committed the murder of his wife. The body of the deceased was recovered from the house of the accused and that was lying in house since last 3–4 days. The accused did not disclose the matter to anybody and when the villagers came to know about the incident, then only the accused made extra judicial confession before them. No explanation has been offered by the accused that how the deceased sustained the homicidal injuries on her body and why the matter was not reported to anyone. Therefore, this circumstance also establishes the involvement of the accused in the crime in question.

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 6 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

As far as second circumstance is concerned, the clothes of the accused and the deceased were sent for chemical examination to the Forensic Science Laboratory, Sagar. As per the report of the Laboratory, it is found that the *Dhoti* of the accused, club and the petticoat of the deceased were stained with blood.

Therefore, in view of the above circumstances, the cumulative effect of all the circumstances unerringly establishes the involvement of the accused in the crime in question.

Accordingly, we do not find any substance in this appeal, there is no reason before us to disturb the finding of trial Court and there is no illegality or infirmity in the judgment of the trial Court.

In the result, the appeal fails and same is dismissed.

Sd/-
L.C. BHADOO
Judge

Sd/-
V.K. Shrivastava
Judge

Gowri

(पीछे देखिये)

18/10/06
21/10/06